

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

JENNIFER DIIANNI)	
)	
Plaintiff,)	
)	No.
vs.)	
)	
I.C. SYSTEM, INC.,)	JURY DEMAND ENDORSED HEREON
)	
Defendant.)	

COMPLAINT

NOW COMES the Plaintiff, JENNIFER DIIANNI, by and through her attorney, M. LYNETTE HARTSELL, and for her Complaint against the Defendant, I.C. SYSTEM, INC, Plaintiff alleges and states as follows:

PRELIMINARY STATEMENT

1. This is an action for actual and statutory damages for violations of the Fair Debt Collection Practices Act (hereinafter the “FDCPA”), 15 U.S.C. § 1692, *et seq.*, and the North Carolina Prohibited Practices by Collection Agencies Engaged in the Collection of Debts From Consumers Statute, N.C. Gen. Stat. § 58-70-90, *et seq.*

JURISDICTION AND VENUE

2. Jurisdiction arises under the FDCPA, 15 U.S.C. § 1692, *et seq.* Venue lies properly in this district pursuant to 28 U.S.C. § 1391(b), as a substantial part of the events and omissions giving rise to the claim occurred within this District.

PARTIES

3. Plaintiff is an individual who was at all relevant times residing in Charlotte, North Carolina.

4. Plaintiff is a “consumer” as defined in 15 U.S.C. § 1692a(3) and N.C. Gen. Stat. § 58-70-90(2), as she is a natural person allegedly obligated to pay a debt.

5. At all relevant times, Defendant acted as a “debt collector” within the meaning of 15 U.S.C. § 1692a(6) and as a “collection agency” within the meaning of N.C. Gen. Stat. § 58-70-90(1), in that it held itself out to be a company collecting a consumer debt allegedly owed by Plaintiff.

6. On information and belief, Defendant is a corporation of the State of Minnesota which is licensed to do business in North Carolina and which has its principal place of business in St. Paul, Minnesota.

COUNT I

(Violation of the Fair Debt Collection Practices Act)

7. On or about August 31, 2009, Defendant sent a letter to Plaintiff in regard to the collection of an alleged debt.

8. Shortly thereafter, representatives of Defendant began contacting Plaintiff by telephone one to two times per day, in attempts to collect the aforementioned alleged debt.

9. During these telephone calls, representatives of Defendant used offensive and abusive language, calling Plaintiff irresponsible on at least one occasion.

10. On or about October 14, 2009, Defendant was advised in writing that Plaintiff was now represented by the undersigned counsel.

11. Nonetheless, on or about November 3, 2009, representatives of Defendant contacted Plaintiff by telephone in an attempt to collect the aforementioned alleged debt.

12. In its attempts to collect the aforementioned alleged debt, Defendant violated the FDCPA in one or more of the following ways:

- a. Using obscene or profane language and/or language the natural consequence of which was to abuse Plaintiff, in violation of 15 U.S.C. § 1692d(2);
- b. Causing a telephone to ring or engaging Plaintiff in conversation repeatedly and continuously with the intent to annoy, abuse or harass her, in violation of 15 U.S.C. § 1692d(5);
- c. Communicating with Plaintiff after Defendant had been advised that she was represented by an attorney with respect to the alleged debt, in violation of 15 U.S.C. § 1692c(a)(2); and
- d. By acting in an otherwise deceptive, unfair and unconscionable manner and failing to comply with the FDCPA.

13. As a result of Defendant's violations as aforesaid, Plaintiff has suffered and continues to suffer personal humiliation, embarrassment, mental anguish and emotional distress.

WHEREFORE, Plaintiff, JENNIFER DIANNI, respectfully prays for a judgment as follows:

- a. Statutory damages of \$1,000.00 for each violation of the FDCPA;
- b. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff; and
- c. Any other relief deemed appropriate by this Honorable Court.

COUNT II

(Violation of the Prohibited Practices by Collection Agencies

Engaged in the Collection of Debts From Consumers Statute)

14. Plaintiff hereby adopts, re-alleges and incorporates by reference all allegations set forth above as though fully rewritten here.

15. In its attempts to collect the aforementioned alleged debt, Defendant violated the NCDCA in one or more of the following ways:

- a. Using obscene or profane language and/or language the nature consequence of which was to abuse Plaintiff, in violation of N.C. Gen. Stat. § 58-70-100(1);
- b. Causing a telephone to ring or engaging Plaintiff in conversation repeatedly and continuously with the intent to annoy, abuse or harass her, in violation of N.C. Gen. Stat. § 58-70-100(3);
- c. Communicating with Plaintiff after Defendant had been advised that she was represented by an attorney with respect to the alleged debt, in violation of N.C. Gen. Stat. § 58-70-115(3); and
- d. By acting in an otherwise deceptive, unfair and unconscionable manner and failing to comply with the NCDCA.

16. As a result of Defendant's violations as aforesaid, Plaintiff has suffered and continues to suffer personal humiliation, embarrassment, mental anguish and emotional distress.

WHEREFORE, Plaintiff, JENNIFER DIANNI, respectfully prays for judgment against Defendant as follows:

- a. Statutory damages of \$4,000.00 for each violation of the above-cited North Carolina statutes;
- b. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff; and
- c. Any other relief deemed appropriate by this Honorable Court.

JURY DEMAND

Pursuant to Civil Rule 38, Plaintiff hereby demands a trial by jury on all issues in this action, except for any issues relating to the amount of attorneys' fees and litigation costs to be awarded should Plaintiff prevail on any of her claims in this action.

Respectfully Submitted,

/s/ M. Lynette Hartsell
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